

Message Text

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12

ORIGIN EB-07

INFO OCT-01 AF-06 ARA-06 NEA-10 ISO-00 FEA-01 OPIC-03

ITC-01 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00 FRB-03

H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01

AID-05 CIEP-01 SS-15 STR-04 TRSE-00 USIA-06 PRS-01

SP-02 OMB-01 /106 R

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AF/EPS:RDUNCAN (S'OS)

ARA/ECP:RSTERN

L/EB:SBOND

EB/ITP/OT/GCP:MGOLDMAN (INFO)

L/NEA:KHUFFMAN (INFO)

L/AF:FWILLIS (INFO)

L/ARA:DGANTZ (INFO)

TREASURY:PDAVIS

CIEP:GKAMENS(INFO)

AID/GC/AFR:EDRAGON(INFO)

COMMERCE:JSEVER(INFO)

AID/GCNEAA:MKITAY(INFO)

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R 031537Z PEB 76

FM SECSTATE WASHDC

TO AMEMBASSY CAIRO

AMEMBASSY COLOMBO

AMEMBASSY DAMASCUS

AMEMBASSY ISLAMABAD

AMEMBASSY KABUL

AMEMBASSY KINSHASA

AMEMBASSY LA PAZ

AMEMBASSY MOGADISCIO

AMEMBASSY NEW DELHI

AMEMBASSY PORT OF SPAIN

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AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA

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E.O. 11652: N/A

TAGS:EINV

SUBJECT: EXPROPRIATED U.S. PROPERTY AND COUNTRY ELIGIBILITY
FOR GENERALIZED PREFERENCES (GSP)

SUMMARY. THIS CABLE DESCRIBES THE PROCESS OF INTERAGENCY
REVIEW OF COUNTRY ELIGIBILITY FOR GENERALIZED PREFERENCES
UNDER THE EXPROPRIATION PROVISION OF THE TRADE ACT OF 1974.
THE PRESENT STATUS OF THAT REVIEW, AND ITS RESULTS INSOFAR
AS THEY DIRECTLY PERTAIN TO ADDRESSEE POSTS, ARE RELATED
IN PARA. 3. END SUMMARY.

1. THE TRADE ACT OF 1974 AUTHORIZES THE U.S. TO INSTITUTE
A GENERALIZED SYSTEM OF PREFERENCES (GSP) PROVIDING DUTY-
FREE TREATMENT TO U.S. IMPORTS OF ELIGIBLE ARTICLES FROM
DESIGNATED BENEFICIARY DEVELOPING COUNTRIES. SECTION 502
(B)(4) OF THE ACT (THE TEXT OF WHICH WAS PROVIDED TO ALL
POSTS BY STATE 282968 OF DECEMBER 28, 1974) PROHIBITS THE
PRESIDENT FROM DESIGNATING AS AN ELIGIBLE BENEFICIARY ANY
COUNTRY WHICH EXPROPRIATES PROPERTY WHICH IS 50 PERCENT OR
MORE AMERICAN-OWNED WITHOUT TAKING THE STEPS REQUIRED BY
502(B)(4)(D) TOWARD DISCHARGING ITS OBLIGATIONS UNDER INTER-
NATIONAL LAW. THIS PROVISION IS SIMILAR IN LANGUAGE AND
INTENTION TO OTHER LEGISLATION CALLING FOR THE USG TO SUS-
PEND BILATERAL ASSISTANCE, AND TO VOTE NEGATIVELY ON LOANS

UNDER CONSIDERATION IN MULTILATERAL DEVELOPMENT BANKS, TO
COUNTRIES WHICH EXPROPRIATE AMERICAN PROPERTY WITHOUT
TAKING THE CORRESPONDING STEPS REQUIRED BY INTERNATIONAL
LAW (THE HICKENLOOPER AND GONZALEZ AMENDMENTS, RESPEC-
TIVELY).

2. IN FEBRUARY 1975 THE CIEP INTERAGENCY COORDINATING
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GROUP ON EXPROPRIATION (EXPROPRIATION GROUP) CONDUCTED AN
INTENSIVE STAFF-LEVEL REVIEW OF COUNTRY ELIGIBILITY FOR
GSP UNDER 502(B)(4) AS ONE OF THE PRECONDITIONS TO THE
PRODUCT ANALYSIS OF POTENTIALLY-ELIGIBLE ARTICLES TO BE
CONDUCTED BY THE INTERNATIONAL TRADE COMMISSION (FORMERLY
THE TARIFF COMMISSION). POTENTIAL BENEFICIARIES WHICH
APPEARED TO BE INELIGIBLE FOR GSP FOR REASONS OTHER THAN

EXPROPRIATION, E.G., MEMBERS OF OPEC, WERE NOT CONSIDERED DURING THE EXPROPRIATION GROUP'S REVIEW. THE EXPROPRIATION GROUP DECIDED THAT A NUMBER OF POTENTIAL BENEFICIARY COUNTRIES (21) HAD TAKEN ACTIONS WHICH WERE EXPROPRIATORY WITHIN THE MEANING OF THE ACT, BUT THAT ALL BUT THREE OF THEM WERE TAKING THE CONCOMITANT STEPS REQUIRED BY 502 (B)(4)(D). SUBSEQUENTLY, PRESIDENT FORD REFLECTED THE RESULTS OF THIS REVIEW IN HIS EXECUTIVE ORDER 11844 OF MARCH 24, 1975 (DESIGNATING BENEFICIARY DEVELOPING COUNTRIES AND COUNTRIES "UNDER CONSIDERATION" FOR SUCH DESIGNATION), AND IN THE "DETERMINATIONS" WHICH HE FURNISHED TO CONGRESS CONCERNING COUNTRIES TAKING THE STEPS REQUIRED BY THE ACT. THE TEXTS OF THESE DOCUMENTS WERE PROVIDED TO ALL POSTS BY STATE 66541 AND STATE 66542 (BOTH OF MARCH 24, 1975), RESPECTIVELY.

3. OVER THE PAST FEW MONTHS, IN ANTICIPATION OF GSP BEING IMPLEMENTED ON JANUARY 1, 1976, THE EXPROPRIATION GROUP CONDUCTED ANOTHER INTENSIVE STAFF-LEVEL REVIEW. AS A RESULT, IT WAS DETERMINED THAT SOMALIA, ONE OF THE COUNTRIES WHICH HAD REMAINED "UNDER CONSIDERATION" FOR ELIGIBILITY IN MARCH, WAS MEETING THE REQUIREMENTS OF 502(B)(4), AND IT HAS SINCE BEEN ADDED TO THE LISTS OF ELIGIBLE BENEFICIARIES. IT WAS ALSO DECIDED THAT THERE WERE OUTSTANDING EXPROPRIATIONS IN A NUMBER OF OTHER COUNTRIES PREVIOUSLY DESIGNATED AS ELIGIBLE (THESE WERE EITHER CASES WHICH REMAINED UNRESOLVED SINCE THE GROUP'S FEBRUARY 1975 REVIEW, OR WHICH HAD ARISEN SUBSEQUENT TO IT), AND THAT SUCH COUNTRIES WERE TAKING OR CONTINUING TO TAKE THE STEPS REQUIRED BY THE ACT. THE ADDRESSEE COUNTRIES FALL INTO THIS CATEGORY. FYI. IN ADDITION THE GROUP ALSO IDENTIFIED A NUMBER OF "GRAY-AREA" COUNTRIES IN WHICH THERE WERE OUTSTANDING EXPROPRIATIONS OF AMERICAN-OWNED PROPERTY WITH LITTLE PROGRESS TOWARD SETTLEMENT. EACH OF LIMITED OFFICIAL USE

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THESE COUNTRIES HAS BEEN APPROACHED ON AN INDIVIDUAL BASIS,

AND THEIR GSP ELIGIBILITY REMAINS, IN A NUMBER OF INSTANCES, UNDER INTENSIVE RECONSIDERATION. END FYI.

4. THE EXPROPRIATION GROUP HAS A CONTINUING RESPONSIBILITY TO KEEP UNDER REVIEW ALL OUTSTANDING CASES OF EXPROPRIATION WHICH MIGHT BEAR UPON COUNTRY ELIGIBILITY FOR GSP (AS WELL AS THE POSSIBLE APPLICATION OF THE HICKEN-LOOPER AND GONZALEZ AMENDMENTS), AND TO MAKE APPROPRIATE RECOMMENDATIONS BASED UPON ITS FINDINGS. ACCORDINGLY, IT REMAINS IMPORTANT THAT POSTS FOLLOW SUCH CASES CLOSELY, REPORT DEVELOPMENTS IN THEM AS THEY OCCUR (AND PERIODIC STATUS REPORTS IN ANY EVENT), AND TAKE APPROPRIATE ACTION

TO FACILITATE CONTINUED PROGRESS TOWARD SETTLEMENT. FOR
POSTS' GUIDANCE, GENERAL INFORMATION ON HANDLING OF
INVESTMENT DISPUTES PROVIDED TO ALL POSTS BY STATE A-10523
OF DECEMBER 28, 1973. INGERSOLL

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